

# United States Court of Appeals For the First Circuit

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Nos. 13-2007; 14-1718

IN RE: NEW ENGLAND COMPOUNDING PHARMACY, INC.  
PRODUCTS LIABILITY LITIGATION

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SANDRA F. ARTIS; DANA MARLENE BRADLEY; RONNIE A. BROWN;  
RONALD T. COURTNEY; TRUDY R. EPPERLY; BARBARA J. FILSON;  
ROBERT EARL HARRIS, JR.; JULIAN D. HOLBROOK; ROSE M. WHITE;  
CHESTER T. KALINOSKI; PAULINE R. MCFARLANE; ODESSA M. SHUCK;  
JAMES WIRT SMITH, JR.; RANDOLPH E. SMITH; RICHARD A. WHITLOW;  
PATRICIA S. BROWN, Executor of the Estate of Louis B. Spicer, Deceased; JOHN D. SPICER,  
Executor of the Estate of Louis B. Spicer, Deceased; JENAE S. PATSELL,  
Executor of the Estate of Louis B. Spicer, Deceased; Z.L.F., a minor,  
by his parents and next friends, Benjamin T. Foutz and Andrea L. Foutz;  
ROBERT DANA BENDER, Executor of the Estate of Ralph James Irace, Jr., Deceased

Plaintiffs - Appellants/Petitioners

SHARON G. WINGATE, Executor of the Estate of Douglas Gray Wingate, Deceased

Plaintiff

v.

NEW ENGLAND COMPOUNDING PHARMACY, INC., d/b/a New England Compounding  
Center; AMERIDOSE, LLC; MEDICAL SALES MANAGEMENT, INC.;  
BARRY J. CADDEN; GREG CONIGLIARO; LISA CONIGLIARO CADDEN;  
GDC PROPERTIES MANAGEMENT, LLC; ARL BIO PHARMA, INC.;  
DOUGLAS CONIGLIARO; CARLA CONIGLIARO; GLENN CHIN;  
SOUTH JERSEY HEALTHCARE; SOUTH JERSEY REGIONAL MEDICAL CENTER;  
ALAUNUS PHARMACEUTICAL, LLC; NITESH BHAGAT; PREMIER ORTHOPAEDIC  
AND SPORTS MEDICINE ASSOCIATES OF SOUTHERN NEW JERSEY, LLC,  
trading as Premier Orthopaedic Associates; PREMIER ORTHOPAEDIC ASSOCIATES  
SURGICAL CENTER, LLC; KIMBERLY YVETTE SMITH, M.D., a/k/a Kimberly Yvette  
Smith-Martin, M.D.; OCEAN STATE PAIN MANAGEMENT, INC.;  
OFFICIAL COMMITTEE OF UNSECURED CREDITORS, in the Chapter 11 Case of New  
England Compounding; PAUL D. MOORE, Chapter 11 Trustee of the New England  
Compounding Pharmacy, Inc., d/b/a New England Compounding Center

Defendants - Appellees

CARILION SURGERY CENTER NEW VALLEY LLC,  
d/b/a New River Valley Surgery Center, LLC

Defendant

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No. 14-1417

IN RE: NEW ENGLAND COMPOUNDING PHARMACY, INC.  
PRODUCTS LIABILITY LITIGATION

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SANDRA F. ARTIS; DANA MARLENE BRADLEY; RONNIE A. BROWN;  
RONALD T. COURTNEY; TRUDY R. EPPERLY; BARBARA J. FILSON; Z.L.F.,  
a minor, by his parents and next friends, Benjamin T. Foutz and Andrea L. Foutz;  
ROBERT EARL HARRIS, JR.; JULIAN D. HOLBROOK; ROBERT DANA BENDER,  
Executor of the Estate of Ralph James Irace, Jr., Deceased; CHESTER T. KALINOSKI;  
PAULINE R. MCFARLANE; ODESSA M. SHUCK; JAMES WIRT SMITH, JR.;  
RANDOLPH E. SMITH; PATRICIA S. BROWN, Executor of the Estate of Louis B. Spicer,  
Deceased; JOHN D. SPICER, Executor of the Estate of Louis B. Spicer, Deceased;  
JENAE S. PATSELL, Executor of the Estate of Louis B. Spicer, Deceased;  
ROSE M. WHITE; RICHARD A. WHITLOW

Plaintiffs - Appellants

v.

NEW ENGLAND COMPOUNDING PHARMACY, INC,  
/b/a New England Compounding Center; AMERIDOSE, LLC; MEDICAL SALES  
MANAGEMENT, INC; BARRY J. CADDEN; GREG CONIGLIARO;  
LISA CONIGLIARO CADDEN; GDC PROPERTIES MANAGEMENT, LLC;  
ARL BIO PHARMA, INC; DOUGLAS CONIGLIARO; CARLA CONIGLIARO;  
GLENN CHIN; SOUTH JERSEY HEALTHCARE; SOUTH JERSEY REGIONAL MEDICAL  
CENTER; ALAUNUS PHARMACEUTICAL, LLC; NITESH BHAGAT;  
CARILION SURGERY CENTER NEW RIVER VALLEY, LLC, d/b/a New River Valley  
Surgery Center, LLC; PREMIER ORTHOPAEDIC AND SPORTS MEDICINE ASSOCIATES  
OF SOUTHERN NEW JERSEY, LLC, trading as Premier Orthopaedic Associates;  
PREMIER ORTHOPAEDIC ASSOCIATES SURGICAL CENTER, LLC;  
KIMBERLY YVETTE SMITH, a/k/a Kimberly Yvette Smith-Martin, MD;  
OCEAN STATE PAIN MANAGEMENT, INC.; PAUL D. MOORE, Chapter 11 Trustee of the  
New England Compounding Pharmacy, Inc. d/b/a New England Compounding Center;  
SAINT THOMAS OUTPATIENT NEUROLSURGICAL CENTER, LLC;  
HOWELL ALLEN CLINIC, a Professional Corporatioin; MEDICAL SALES MANAGEMENT  
SW, INC.; JOHN CUCLASURE, MD; DEBRA SCHAMBERG, MD;

INSIGHT IMAGING, INC.; SAINT THOMAS WEST HOSPITAL, f/k/a Saint Thomas Hospital; SAINT THOMAS NETWORK; SAINT THOMAS HEALTH; BKS PAIN SPECIALISTS; ADIL KATABAY; NIKESH BATRA; KENNETH R. LISTER, MD; MARION PAIN MANAGEMENT CENTER, INC.; UNIFIRST CORPORATION, d/b/a Unclean Cleanroom Services; MINNESOTA SURGERY CENTER; MEDICAL ADVANCED PAIN SPECIALISTS, PA; DAVID M. SCHULTZ, MD; ASCENSION HEALTH; AMBULATORY CARE CENTER, LLC; ST. MARY'S MEDICAL CENTER, d/b/a St. Mary's Surgicare; WILLIAM A. ANTE; SPECIALTY SURGERY CENTER, PLLC; VAUGHAN A. ALLEN, MD; SAINT THOMAS HOSPITAL WEST, f/k/a Saint Thomas Hospital; ADVANCED PAIN & ANESTHESIA CONSULTANTS PC, d/b/a APAC Centers for Pain Management; RANDOLPH Y. CHANG, MD; HIGH POINT REGIONAL HEALTH, f/k/a High Point Regional Health System, d/b/a High Point Regional Hospital; HIGH POINT SURGERY CENTER, a North Carolina General Partnership; KENNETH LISTER, MD, P.C.; IMAGE GUIDED PAIN MANAGEMENT, P.C.; CINCINNATI PAIN MANAGEMENT CONSULTANTS, INC.; CINCINNATI PAIN MANAGEMENT CONSULTANTS, LTD; GURURAU SUDARSHAN, MD; SUNRISE HOSPITAL & MEDICAL CENTER, LLC; WILSON CHU; HAHNEMANN UNIVERSITY HOSPITAL; TENET HEALTHSYSTEM HAHNEMANN, LLC; ABBESELOM GHERMAY; DALLAS BACK PAIN MANAGEMENT/MOMENTUM PAIN; MANAGEMENT; NASARETH HOSPITAL; MERCY HEALTH SYSTEM OF S.E. PENNSYLVANIA; JOHN MATHIS, MD; ROBERT O'BRIEN, MD; WILLIAM A. ANDERSON, MD; THE ROTHMAN INSTITUTE; THE ROTHMAN INSTITUTE AT NAZARETH HOSPITAL; INSIGHT HEALTH CORPORATION

Defendants - Appellees

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### **JUDGMENT**

Entered: September 29, 2015  
Pursuant to 1st Cir. R. 27.0(d)

Upon consideration of the parties' joint motion, it is hereby ordered that these cases be voluntarily dismissed pursuant to Fed. R. App. P. 42(b) with each party to bear their own costs.

Mandate to issue forthwith.

By the Court:

/s/ Margaret Carter, Clerk

cc:  
Service list